

March 1, 2017



Talbot County Planning Commission
Final Decision Summary

Wednesday, February 1, 2017 at 9:00 a.m.
Wye Oak Room, Community Center
10028 Ocean Gateway, Easton, Maryland

Attendance:

Commission Members:

William Boicourt, Chairman
John N. Fischer, Jr., Vice Chairman
Michael Sullivan
Paul Spies
Phillip "Chip" Councill

Staff:

Mary Kay Verdery, Planning Officer
Elisa Deflaux, Environmental Planner
Meagan Patrick, Floodplain Coordinator
Mike Mertaugh, Assistant County Engineer
Victoria Rachel, Temporary Recording Secretary

1. Call to Order—Commissioner Boicourt called the meeting to order at 9:00 a.m.

2. Decision Summary Review—January 4, 2017—The Commission noted the following correction to the draft decision summary:

- a. Line 130, amend to read as follows: "Commissioner Spies commented that a sidewalk was not necessary at this juncture, but indicated that at some point, one may be appropriate in the future."

Commissioner Spies moved to approve the draft Planning Commission Decision Summary for January 4, 2017, as amended; Commissioner Fischer seconded the motion. The motion carried unanimously.

3. Old Business

None

4. New Business

- a. Major Site Plan-Harbourtowne Golf Course, #SP580-9784 Martingham Circle, St. Michaels, MD 21663,(map 23, grid 8, parcel 1, zoned Rural Conservation/Western Rural Conservation), Bill Stagg, Lane Engineering, Agent.

Elisa Deflaux presented the staff report of the applicant's request as follows:

The applicant is requesting Major Site Plan approval for the expansion of an existing golf course by adding a portion of Map 23, Parcel 90, Lot 6, a 19.451 acre adjacent parcel for a driving range/golf practice facility. The existing nonconforming use is classified as "Golf courses and country clubs (public or private)". The expansion is limited to 20% of the "in play" area of the course located in the RC District as of August 13, 1989, consistent with §190-167D5.

Staff recommendations include:

- 1) **Address the January 11, 2017 TAC comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District, and the State Highway Administration (SHA) prior to CRM submission.**
- 2) **The applicant shall commence construction on the proposed improvements within twelve (12) months from the date of final approval.**
- 3) **The site plan approval is conditioned on the County's adoption of a definition for "in play area," and project compliance with the same.**
- 4) **The site plan approval is conditioned on a permit from Maryland Department of the Environment to cross the nontidal wetlands for the new cart path.**
- 5) **The applicant will need to provide a legal opinion on the Declaration of Restrictive Covenants recorded at 1649/503 to demonstrate to the satisfaction of the County that the prohibition of structures on area being added to the golf course for the driving range can be rescinded or reversed.**

Bill Stagg of Lane Engineering, LLC, and Zach Smith of Armistead, Rust, & Wright Law Firm in Easton, represented the applicant RDC Harbourtowne, LLC. Both gentlemen took turns in presenting the applicant's request to the Planning Commission. Mr. Smith gave a general background of the Harbourtowne Golf Course project, whilst Mr. Stagg, by way of a set of drawings, showed and explained to the Planning Commission the details of the layout of the proposed project.

In his presentation, Mr. Smith stated that the applicant endeavored to substantially renovate the Harbourtowne Resort property which included an 18 hole golf course, hotel, and a conference and events center. Mr. Smith also stated that the golf course renovations had been underway, but a short break was taken due to the holidays; he indicated that construction would resume soon. Mr. Smith stated that the goal was to have those renovations completed by this fall and to have the golf course open and seeded for regular play by the spring of 2018. The RDC Harbourtowne representative, on behalf of the applicant, hoped to submit an application for the hotel site project this month, and looked forward to discuss the Site Plans for that venture with the Planning Commission at the appointed time.

Mr. Smith indicated that the subject matter presented for discussion at the Planning Commission meeting on February 1, 2017, was a continuation of the discussion that was held with the Planning Commission and RDC Harbourtowne representatives in August, 2016. Mr. Smith further stated that a text amendment was discussed at that meeting, the topic of which was the location of the driving range for the Harbourtowne Golf Course. Mr. Smith reported that historically, there has been a driving range at Harbourtowne, but the owner decided to relocate it to the proposed property for the following reasons:

1. The location interfered with enhancement plans for holes 1 and 18.

- 99 2. The dimensions of the driving range were not adequate for today's golfer and golfing
100 equipment. As a result, golf balls sometimes went beyond the limits of the range to
101 the road and on to private property.
102

103 Mr. Smith acknowledged an earlier meeting with the Planning Commission in
104 August, 2016, at which the RDC Representatives proposed to amend the County
105 Zoning Ordinance to permit a 20% expansion of golf courses that existed prior to the
106 enactment of the Critical Area Regulations. Mr. Smith explained that such a proposal
107 was necessary since the County's regulations that previously existed limited the
108 expansion of a legal nonconforming use of the golf course to 10%. Mr. Smith further
109 stated that the legislation which had the full support of the Planning Commission was
110 approved by the County Council in September and was subsequently approved by the
111 Critical Area Commission in December. Mr. Smith stated that the passing of that
112 legislation allowed the applicant to present to the Planning Commission at the
113 meeting on February 1, 2017, a proposal for a driving range for the Harbourtowne
114 Golf Course on an adjacent piece of property.

115 Mr. Smith gave a brief description of the piece of property on which an existing
116 single family home is located; the house sits along the shoreline side of the property
117 and would remain there. He further explained that the proposed area for the driving
118 range was a large upland area situated at least 300 feet from Mean High Water which
119 was a requirement from the recent text amendment.
120

121 Mr. Smith shared that representatives of RDC reached out to the community in
122 August, 2016 to obtain feedback regarding the proposed project. He admitted that the
123 plans have changed somewhat since then. Mr. Smith told the Planning Commission
124 that the forest clearing project proposed at the Planning Commission meeting on
125 February 1, 2017, was not proposed in August. However, he gleaned that the
126 concerns expressed by the community were about the use of Melanie Drive, and
127 lighting on the property. He added that more recently the community voiced concerns
128 about the applicant's proposal to clear all but 10 feet of the forested area; there was
129 also concern about the loss of privacy. Mr. Smith assured the Commission that
130 Melanie Drive would be used to access the single family home on the property but
131 not the driving range. He stated that the driving range would be accessed by the cart
132 path over the golf course, and that other vehicles such as maintenance vehicles would
133 use the service entrance off of Canvasback Way. He also said that there was no
134 proposed lighting whatsoever, on the property.
135

136 In response to the forest-clearing concerns of members of the community, Mr. Smith
137 stated that the applicant agreed to move the driving range back which would result in
138 a 75 foot wide strip of forested area. The applicant also agreed to add a six foot (6 ft)
139 tall, wooden fence in an attempt to address the privacy, and interference concerns of
140 the neighboring residents. Mr. Smith pointed out that under the County's regulations
141 for driving range, there are no code requirements that would set back the driving
142 range any specific distance, though there are setbacks for Mean High Water, and
143 streams. He remarked that the County Council recently adopted that legislation.
144

Mr. Stagg, in his reflective presentation of Mr. Smith's, gave an overview of the plat as a precursor to the driving range development. He explained several specifications of the project, one of which was the lot size waiver. Mr. Stagg pointed out that his team felt it was more important to keep Melanie Drive with the residential lot, and he reiterated that the residential lot would be the only lot with access to Melanie Drive. Mr. Stagg expressed that in order to separate Melanie Drive from the golf course, the remainder of the residential lot would have to be above five acres. Mr. Stagg indicated that the proposed subdivision was 6.092 acres and was in the critical area, hence the need for a waiver.

Commissioner Fischer asked for clarification on the existing single family home. Mr. Stagg stated that the house was unoccupied. Mr. Smith interjected and explained that a family once lived there, but the family sold the house to RDC Harbourtowne and relocated. Mr. Smith said it was their client's intention for it to be kept as a single family home that would be rented, or made available to the general manager of the property. Mr. Smith emphasized that the house would not be a part of the resort.

Mr. Stagg continued to explain that because Melanie Drive would not be used to access the driving range, nor used for maintenance vehicles for the golf course, the proposal to increase the lot size from five (5) acres to 6.092 acres would be justifiable. Mr. Stagg discussed the proposal for a north tee for normal golfers, (not professionals), and a south tee for private golf lessons. Additional vegetative buffering was also proposed to supplement the existing buffer along Melanie Drive. The berms were also discussed, and Mr. Stagg stated that the driving range would not have high berms. Mr. Smith interjected, in an attempt to clarify that a structure was not part of the proposal, that the RDC representatives met with County staff and discussed the possibility of a relatively small building that would serve as a golf teaching center. However, it was not a proposal that was planned to be presented to the Planning Commission on February 1, 2017. Mr. Smith further stated that if and when a decision was made, the RDC representatives would first have to address the issue of the covenants before that proposal could be brought before the Planning Commission.

An invitation was extended to the Planning Commission to give their comments. Mr. Councill expressed that when the project was first proposed in January of 2016, the County was supportive of the renovation of the golf course. However, after visiting the proposed project area, he did not find the view appealing. He had several concerns, two of which were the aesthetics of the golf course and the sediment run-off. Mr. Smith responded that the RDC representatives could address the aesthetics of the golf course. The storm water management was an issue that had been worked on with the County and Mr. Smith was confident that the project met the requirements.

Mr. Smith indicated that Commissioner Fischer attended a meeting with the neighbors that was held in December, and the berms were discussed. Mr. Smith stated that he discussed the concerns with the applicant who intends to address those concerns to some extent. The applicant agreed to have some amount of dirt removed

191 from the berms, but Mr. Smith could not guarantee however, that the improvements
192 would be satisfactory to all.

193
194 Mr. Councell asked Staff if the potential use of the single family residence would be
195 changed if the lot line was revised. Mary Kay Verdery stated that the house would
196 remain a single family home, but the applicant would have to submit a new
197 application should a change in use be proposed.

198
199 Mr. Fischer complimented Mr. Smith and Mr. Stagg on the changes made to the
200 driving range. He also indicated that moving the driving range back 75 feet was a
201 very forthcoming offer in addressing the Patrick's concerns. Commissioner Sullivan
202 agreed.

203
204 Commissioner Fischer appreciated that significant modification would be made to the
205 enormous berm located in front of Quail Hollow as it had been a serious issue for the
206 neighbors and the County. Commissioner Boicourt acknowledged Mr. Councell's
207 viewpoint on the proposed project. He also expressed his appreciation for the
208 screening of the Patrick's property. He felt that the fence would be less objectionable
209 to the Patrick's should the hollies and evergreens be planted behind the fence as
210 proposed.

211
212 Commissioner Boicourt asked for public comments:

213
214 Mrs. Margaret Patrick and her attorney presented their concerns about the
215 Harbourtowne Golf Practicing Facilities. Mrs. Patrick expressed several concerns
216 about the project such as the loss of privacy, the safety of her grandchildren due to
217 increased traffic in the neighborhood, and the negative impact the pesticides used for
218 lawn care could have on wild life in the area.

219
220 Mr. & Mrs. Fippard who came to represent themselves and a new resident in the
221 community, were primarily concerned that the community's covenants were being
222 overlooked. Mr. Fippard remarked that the covenants forbid golf carts and took
223 precedence over the RDC Harbourtowne project.

224
225 Mr. Boicourt pointed out that the Planning commission did not adjudicate covenants.
226 Commissioner Sullivan added that the Planning Commission could not override the
227 covenants of the community. Commissioner Boicourt indicated that Staff
228 recommended that the covenants be dealt with under the appropriate condition before
229 an approval could be given by the Planning Commission.

230
231 Mr. John Gargelli, a member of the Martingham Community, expressed his support
232 for the RDC Harbourtowne project. He remarked that the golf course would support
233 wild life.

Commissioner Spies explained that in today's hearing the Planning Commission did not have any jurisdiction over land use. He reiterated that the Planning Commission had the ability to vote on the on the Major Site Plan, and a Lot Waiver that was presented by the applicant, in question.

As the Site Plans were being discussed, Mr. Mertaugh indicated that the Site Plans that were presented at the February 1, 2017 Planning Commission meeting were different from those that were reviewed at the last Technical Advisory Committee (TAC) meeting. After several questions to the RDC representatives to obtain more clarification on the modifications proposed, a motion was made.

Commissioner Spies moved to recommend to the Planning Officer to approve a Major Site Plan for constructing golf facilities provided compliance with staff recommendations occurs, and be contingent on the staff approving the configuration for emergency vehicles of that entrance off of Canvasback Way, based on the February 1, 2017 submittal. Commissioner Sullivan seconded. The motion carried four votes to one (4-1), with Commissioner Councill not supporting the project as proposed.

Commissioner Sullivan moved to grant a Lot Size Waiver to RDC Harbourtowne, LLC, map 23, grid 21, parcel 90, lot 6, 9599 Melanie Drive, provided compliance with staff recommendations occurs. Commissioner Fischer seconded. The motion carried unanimously.

5. Staff Matters

In giving an update on the zoning code process, Mary Kay Verdery stated that staff received a review packet from CodeWright. The review was approximately 25 pages in length and had more than 100 questions. The Planning Officer informed the Planning Commission that the review session with Code Wright began on January 31, 2017, and continued for at least five hours.

In that meeting, information and clarification of the particulars of the Zoning Ordinance were given. The State's requirements versus the County's regulation, and Village Centers were also discussed. The Planning Officer also indicated that a discussion of the use of dates as a benchmark for moving forward was also part of the content of that first session with CodeWright. Ms. Verdery informed the Planning Commission that staff was also working internally with Martin Sokolich, and Mark Cohoon to update the zoning maps to reflect the changes in the Comprehensive Plan.

Ms. Verdery told the Planning Commission that every item from the Comprehensive Plan that was related to the Zoning Ordinance was identified by the consultant. This was done to ensure that each item was addressed in the code update process, she further explained. The Planning Officer said it was staff's goal to have CodeWright conduct a joint meeting with the Planning Commission and the County Council in an attempt for both groups to

283 dialogue with CodeWright concerning the code update process. The meeting was
284 proposed for sometime in March/April. Ms. Verdery indicated that once the code
285 assessment list had been completed, it would be available to the public.
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287
288 **6. Adjournment**—Commissioner Boicourt adjourned the meeting at 11.00 a.m.
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